



United States Department of the Interior

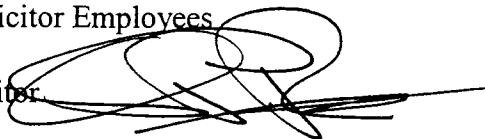
OFFICE OF THE SOLICITOR

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Memorandum

MAY 17 2004

To: All Office of the Solicitor Employees

From: Acting Deputy Solicitor 

Subject: Solicitor's Office Alternative Dispute Resolution Program

The Secretary has articulated the President's vision for a "new environmentalism" that is best characterized by her 4 C's initiative - Communication, Consultation, Cooperation all in the service of Conservation. Within the context of this vision, each one of us who is charged with the responsibility of providing legal services within the Department must recognize that litigation is not always the most effective means through which we can provide those services. Alternative dispute resolution (ADR) is a broad phrase encompassing a spectrum of processes that may be used in lieu of administrative adjudication and litigation to resolve conflicts effectively in a variety of circumstances. ADR processes are generally more flexible, creative, and cooperative than litigation. Coincident with the development of the Secretary's vision for a new environmentalism, courts are ordering ADR in ever increasing numbers of cases.

Based on a comprehensive review of the Department's ADR policy, programs, and organizational structure conducted in 2001, the Department established within the Office of the Secretary an Office of Collaborative Action and Dispute Resolution (CADR) responsible for working with all bureaus and offices to ensure full implementation of the Department's ADR policy. That same ADR review identified a need to build capacity and clarify the role of Solicitor's Office attorneys in support of the appropriate use of ADR processes. I am committed to establishing a strong ADR program within the Office of the Solicitor in support of CADR's efforts to promote full implementation of the Department's ADR policy.

In order to incorporate the use of ADR into our practice, the Solicitor's Office has established an ADR working group with representatives from each region and each division in the Washington office. Joan Goldfarb of the Division of Parks and Wildlife has agreed to head the working group. Members of the working group include: Jim Weiner and Anjali Kumar (General Law), John Carlucci (Parks and Wildlife), Mike Hickey and Scott Klundt (Land and Water), Sabrina McCarthy (Indian Affairs); Sarah Inderbitzin (Mineral Resources), Jim Epstein (Northeast Region), Mike Stevens (Southeast Region), Bob Comer (Rocky Mountain Region) Elaine England (Intermountain Region), Tonianne Baca Green (Southwest Region), Karen Koch (Pacific Southwest Region), Marianne King (Pacific Northwest Region), and Joe Darnell (Alaska).

This group has already begun to meet and to develop a concise survey to obtain information about current and potential uses of ADR in the Solicitor's Office practice. I expect that within two weeks of receiving this survey each attorney will return a completed survey to the

working group through their representative. This information will assist the working group in identifying how it can provide the most effective services for the attorneys in the Solicitor's Office. I ask each regional and associate solicitor to work with their ADR working group representative to ensure that their attorneys respond by the two-week deadline.

The mission of the ADR working group is to advance the use of ADR in the Solicitor's Office in appropriate circumstances by: 1) developing an ADR Policy for the Solicitor's Office; 2) disseminating information from the CADR office throughout SOL and providing input to the CADR office regarding Departmental policies and guidance on the use of ADR; 3) ensuring that all attorneys and managers within the Solicitor's Office are aware of the benefits and limitations of various ADR processes and have the training that will help them to use appropriate processes; 4) assisting attorneys in evaluating whether an ADR process would be valuable in particular cases; 5) making ADR resources available to attorneys seeking to participate in ADR processes; 6) coordinating with the Department's CADR office, and the designated Bureau Dispute Resolution Specialists (BDRS) in all bureaus and offices to provide legal support and assistance for all ADR programs and initiatives; and 7) keeping abreast of ADR efforts and programs in other agencies' general counsel's offices.

Associate Solicitor-Administration, Ed Keable, is the designated BDRS for the Office of the Solicitor, and he and I will work with the ADR working group to help build an effective SOL ADR program. Each attorney will also have responsibilities to ensure that the SOL ADR program is successful. In particular, you should be prepared to: 1) attend training sessions that are provided by the Solicitor's Office regarding ADR, and to seek out other opportunities to obtain training in ADR; 2) assist the working group as needed, i.e., by providing any information or feedback that they may seek, such as through the surveys mentioned above; 3) seek to identify circumstances in which ADR would likely be beneficial; and 4) participate appropriately in any ADR processes that are undertaken. The working group will help attorneys in this endeavor, whether through providing ADR training, providing consultation or advice in individual cases, or through revising and expanding the Early Case Assessment pilot project that the Department introduced in our Atlanta Regional Office last year. Please contact Joan Goldfarb at 202-208-6620 if you have an interest in being actively involved in this effort.

I recognize that ADR may be an unfamiliar tool for some attorneys in the Solicitor's Office. Nevertheless, I wish to make clear my enthusiastic support for ADR and other collaborative means for resolving disputes involving the Department. I strongly encourage each of you to become familiar with these important legal tools as the Solicitor's Office establishes its ADR program. We can best serve our client only if we are prepared to recommend and participate in ADR processes where doing so is likely to produce more equitable, effective, and durable solutions than litigation.

cc: Secretary
Deputy Secretary
Chief of Staff
Assistant Secretaries
Bureau and Office Heads
Director, Office of Collaborative Action and Dispute Resolution